

grant agreement governing the operation and administration of a State certified mediation program receiving Federal grant funds under this part.

(d) A mediator in a program certified under this part has no authority to make decisions that are binding on parties to a dispute.

(e) No person may be compelled to participate in mediation provided through a mediation program certified under this part. This provision shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

§ 785.2 Definitions.

Administrator means the Administrator, FSA, or authorized designee.

Certified State mediation program means a program providing mediation services that has been certified in accordance with section 785.3.

Confidential mediation means a mediation process in which the mediator will not disclose to any person oral or written communications provided to the mediator in confidence, except as allowed by 5 U.S.C. 574 or section 785.9.

Covered persons means producers, their creditors (as applicable), and other persons directly affected by actions of the USDA involving one or more of the following issues:

- (1) Wetlands determinations;
- (2) Compliance with farm programs, including conservation programs;
- (3) Agricultural loans (regardless of whether the loans are made or guaranteed by the USDA or are made by a third party);
- (4) Rural water loan programs;
- (5) Grazing on National Forest System lands;
- (6) Pesticides; or
- (7) Such other issues as the Secretary may consider appropriate.

Fiscal year means the period of time beginning October 1 of one year and ending September 30 of the next year and designated by the year in which it ends.

FSA means the Farm Service Agency of the U.S. Department of Agriculture, or a successor agency.

Mediation services means all activities relating to the intake and scheduling of mediations; the provision of background and selected information re-

garding the mediation process; financial advisory and counseling services (as reasonable and necessary to prepare parties for mediation) performed by a person other than a State mediation program mediator; and mediation sessions in which a mediator assists disputing parties in voluntarily reaching mutually agreeable settlement of issues within the laws, regulations, and the agency's generally applicable program policies and procedures, but has no authoritative decision making power.

Mediator means a neutral individual who functions specifically to aid the parties in a dispute during a mediation process.

Qualified mediator means a mediator who meets the training requirements established by State law in the State in which mediation services will be provided or, where a State has no law prescribing mediator qualifications, an individual who has attended a minimum of 40 hours of core mediator knowledge and skills training and, to remain in a qualified mediator status, completes a minimum of 20 hours of additional training or education during each 2-year period. Such training or education must be approved by the USDA, by an accredited college or university, or by one of the following organizations: State Bar of a qualifying State, a State mediation association, a State approved mediation program, or a society of professionals in dispute resolution.

Qualifying State means a State with a State mediation program currently certified by FSA.

§ 785.3 Annual certification of State mediation programs.

To obtain FSA certification of the State's mediation program, the State must meet the requirements of this section.

(a) *New request for certification.* A new request for certification of a State mediation program must include descriptive and supporting information regarding the mediation program and a certification that the mediation program meets certain requirements as prescribed in this subsection. If a State is also qualifying its mediation program to request a grant of Federal